

March 2, 2021

**Written Testimony of
Rich Pingel, Chief Legal Officer of Sportech PLC in Opposition to
S.B. No. 573 AN ACT REPEALING THE PROHIBITION AGAINST ACCEPTING
ADVANCED DEPOSIT WAGERS**

Hello Members of the Public Safety and Security Committee:

My name is Rich Pingel, I'm the Chief Legal Officer of Sportech PLC—and I thank you for your time today.

Last month, I was compelled to write the Members of this Committee on February 9, and I request that you draw reference to that letter and its exhibits as component of my testimony today. See attached, with exhibits.

I appear in opposition to Senate Bill 573, which seeks to repeal certain ADW provisions that were passed in Public Act 19-177, then necessitated after over twenty five (25) illegal operators ignored the express demands of Connecticut's Attorney General to cease and desist their illegal gambling operations in the State.

By way of quick background and reference, ADW is an acronym for Advance Deposit Wagering on certain pari-mutuel racing and sports betting products.

ADW is currently offered in Connecticut by Sportech by virtue of its Agreement with the State and its licenses issued and regulated by the Connecticut Department of Consumer Protection.

The original ADW legislation within Public Act 19-177 was proposed by Sportech, in consultation with the DCP, to curb illegal gambling activities in the state.

There has been much talk in this Committee over the past years about "black-markets" in gambling, and how to best combat them, and how to protect residents—and because of that, it is shocking to see SB573 being proposed to this Committee.

Before Public Act 19-177 was passed, and despite its better intentions, CT had been deemed a "grey-market" by many operators who exploited loopholes and adopted statutory interpretations adverse to CT's regulators, tax collectors, and most importantly its constituents.

If passed, SB573 would condone the illegal practices of out-of-state, unlicensed entities that conduct illegal gambling within Connecticut in flagrant derogation of its Laws and Officials—effectively unravelling years of remedial work addressing this problem by this Committee, the Legislature, the DCP, the AG's Office, and the Governor's Office.

This very problem was why the Department of Consumer Protection appeared and testified against a similar bill when it was proposed last year, and why they again appear today in ardent opposition of the same.

So while I officially appear today on behalf of Sportech, allow me to also indulge my voice as a citizen of Connecticut, and to state how unfathomable it would be for this Committee to advance a bill that would harm our State for the benefit of the illegal gambling outfits that the State has been battling to eradicate for years.

To be clear, it is imperative that the Committee understand that these illegal gambling operators beseeching the Committee's support of SB573:

- Pay ZERO taxes to Connecticut;
- Provide ZERO jobs in Connecticut;
- Invest ZERO dollars in Connecticut;
- Contribute ZERO dollars to Problem Gambling initiatives in Connecticut;
- Hold ZERO gambling licenses in Connecticut;
- Provide ZERO regulatory oversight and consumer protections to Connecticut's residents; and
- Operate in flagrant disregard and contempt of direct CEASE AND DESIST ORDERS from Connecticut's Attorney General and DCP.

The non-partisan Office of Fiscal Analysis projects that up to \$2.3 million per year is lost from these illegal operators, and was the very reason the ADW provisions of Public Act 19-177 were passed—the very same provisions sought to be unraveled by SB573.

In sum, promoting SB573 is equivalent to ratifying illegal gambling in the State of Connecticut. Such promotion risks providing authority for an unlicensed gambling entity to operate illegally in Connecticut, entirely bypass State taxes, ignore laws and regulations, strip consumer protections from Connecticut's residents, and breach longstanding State agreements.

SB573 harms Connecticut and sets an appalling precedent that illegal operators are free to operate with impunity to our State's jurisdiction and laws. This should absolutely not be encouraged. Please do not support SB573 as it is inapposite of the State's numerous and concerted efforts to curtail illegal gambling.

Thank you, and I welcome any of your questions on SB573 and Sportech.

Appendices

1. Letter dated February 9, 2021 to the Public Safety and Security Committee.



Sportech Venues Inc.

600 Long Wharf Drive

New Haven, CT 06511

USA

Mywinners.com

Bobbyvsrestaurant.com

February 9, 2021

SENT VIA EMAIL

Public Safety and Security Committee
Legislative Office Building, Room 3600
Hartford, CT 06106

Dear Members of the Public Safety and Security Committee:

I offer this letter and supporting materials to clarify and correct some recent misconceptions about Connecticut's Advanced Deposit Wagering (ADW) statutes.

Senate Bill 573, AN ACT CONCERNING ADVANCED DEPOSIT WAGERING, which repeals certain provisions of Public Act 19-177, would revert to allowing out-of-state, unlicensed entities to accept illegal wagers and avoid paying Connecticut taxes. This very problem was why the Department of Consumer Protection testified against a similar bill when it was proposed last year (see attached testimony, excerpted in relevant part, from Commissioner Seagull of DCP).

The original legislation within Public Act 19-177 was proposed by Sportech, in consultation with the DCP, after several illegal operators ignored a series of 28 Cease and Desist orders issued by Attorney General Jepsen and Commissioner Rubenstein in 2014 (see attached representative example of the Cease and Desist Orders). These Orders clearly recite that Connecticut law, since 1993, has established that only Sportech may accept in-state pari-mutuel bets, by virtue of the rights purchased from the State in 1993. These rights are not in dispute.

The State of Connecticut has lost tens of millions of dollars of tax revenues from these illegal operators through their exploitation of loopholes that were closed by Public Act 19-177. **The non-partisan Office of Fiscal Analysis projects that up to \$2.3 million per year will be captured if the original 2019 legislation can be fully implemented—which is now sought to be unwound by SB573.** We believe that figure to be conservative.

The claims that Sportech is requesting an exorbitant 'Source Market Fee' are disingenuous. In fact, the fee of 5.5% (as reviewed and approved by DCP) has already been agreed to by leading operators seeking to become compliant with Connecticut law, in consultation with Sportech and DCP. It is important to note that, of the 5.5% source market fee, only 1% is retained by Sportech, and the largest share of 3.5% is remitted directly to the state as tax revenues, with the remainder earmarked towards industry fees.

These reasonable terms are why one license has already been executed by the Department of Consumer Protection and several more are at varied stages of approval. **The first approved license has already resulted in approximate payments of \$300,000 in additional tax revenues that Sportech has already delivered to the State of Connecticut.**

Finally, there have been claims that the original law passed in 2019 “came out of nowhere” and “was snuck into the budget”. Not only did the bill have a public hearing in 2018, but it also passed favorably out of the Public Safety and Security and Judiciary Committees. In 2019, in consultation with the Chairs and Ranking Members of the Public Safety and Security Committee, the provision was included as part of the Finance Committee’s budget bill passed in the middle of the session and subsequently retained as part of the final budget negotiations. There was more than enough time provided to allow all parties affected to make their case to policymakers. Ultimately, those policymakers decided to protect the State of Connecticut’s interests – ensuring that no out-of-state, unlicensed entities can evade state taxes and accept illegal wagers.

Promoting Senate Bill 573 risks providing authority for a gaming entity to operate illegally in Connecticut, bypass state taxes, regulations, consumer protection and subvert previous state agreements. It harms Connecticut and sets a damaging precedent.

Please do not hesitate to contact me for further background information on this matter; in addition, I will be testifying at the public hearing and prepared to answer any questions at that time.

Sincerely,



Richard Pingel
Chief Legal Officer
Sportech PLC

Attachments:

- *Excerpt of 3/3/2020 Testimony of Commissioner Michelle Seagull; and*
- *Example of one of the 28 Cease and Desist Orders sent to out of state illegal operators.*



CONNECTICUT DEPARTMENT OF CONSUMER PROTECTION

MICHELLE H. SEAGULL | COMMISSIONER

Testimony of Michelle Seagull Commissioner of Consumer Protection

Public Safety and Security Committee Public Hearing, March 3, 2020

HOUSE BILL 5395 “AN ACT CONCERNING ADVANCED DEPOSIT WAGERING”

Senator Bradley, Senator Hwang, Representative Verrengia, Representative Sredzinski and Honorable members of the Public Safety and Security Committee, thank you for the opportunity to offer testimony regarding several bills on your agenda today.

HOUSE BILL 5395 “AN ACT CONCERNING ADVANCED DEPOSIT WAGERING”

Connecticut General Statutes (CGS) Chapter 226 requires the Department of Consumer Protection (DCP) to regulate off-track betting in the State of Connecticut and very clearly requires that wagers originating from within this state cannot be accepted unless such transaction is conducted, and accepted, by an operator licensed by DCP. While this regulatory framework has been amended for various reasons since the early 1970’s, the required state regulation of wagers on races originating from Connecticut has been consistent. In the early 1990’s the statutes were amended several times, and ultimately, the state was required to negotiate and enter into a licensing agreement with a single entity to operate this industry. By virtue of a certain agreement with the State entitled State of Connecticut Off-Track Betting System Purchase Agreement dated as of June 30, 1993 (“OTB Agreement”) and Chapter 226 of the Connecticut General Statutes, Sportech Venues, Inc. (“Sportech”) is the State’s exclusive off-track betting association licensee.

450 Columbus Boulevard, Suite 901 Hartford, CT 06103 | (860) 713-6100

www.ct.gov/DCP |  facebook.com/ctdcp |  [@ctdcp](https://twitter.com/ctdcp)

Pursuant to the OTB Agreement, Sportech is expressly and exclusively authorized to accept wagers on horse racing event originating or placed from within the boundaries of the State of Connecticut.

Last year, Sections 358 and 359 of Public Act 19-117 reiterated that “No person or business organization, other than the authorized operator of the off-track betting system, shall conduct off-track betting in the state or accept off-track betting wagers or advance deposit wagers originating or placed from within the boundaries of the state.” This language updated the statutes to address advances in technology whereby more wagers are being placed via telephone or through the internet. It did not however, add regulatory requirements to this form of gaming – those requirements already existed. The Public Act also added more teeth to the enforcement of these statutory requirements by clarifying penalties associated with any violation of the law by any entity conducting off-track betting or accepting advance deposit wagers.

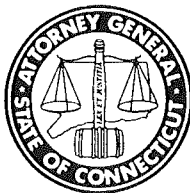
Since the enactment of PA 19-117, DCP has worked with Sportech to allow out-of-state business entities to solicit, collect and route wagers originating from the State of Connecticut to Sportech for acceptance and processing. Such activity is consistent with state and federal law and will allow the state to collect tax revenue from the out-of-state operators that legally enter into advance deposit wager agreements with Sportech.

The proponents of this bill have suggested that the Interstate Horseracing Act ("IHA") somehow renders the need for a state gaming license to accept advance deposit wagers moot. It, in fact, does the opposite. Section 15 U.S. Code § 3004 (Regulation of interstate off-track wagering) states that "an interstate off-track wager may be accepted by an off-track betting systems only if consent is obtained from...the off-track racing commission." The "off-track racing commission" is defined as the entity designated by State statute or regulation with jurisdiction to regulate off-track betting. In this instance, that is DCP. Based on the IHA and state law, Sportech is the only authorized entity to conduct off-track betting, including transactions that originate, or are placed from, within the bounds of the State of Connecticut.

PA 19-117 added the enforcement teeth necessary to bring those violating our licensing and tax laws into compliance, repeal of this language will reverse this progress and enable those entities that have been ignoring our laws to continue to do so.

Moving forward, DCP is happy to work with the proponents of these bills. Please contact our Legislative Director, Leslie O'Brien, should you have any questions.

GEORGE C. JEPSEN
ATTORNEY GENERAL



55 Elm Street
P.O. Box 120
Hartford, CT 06141-0120

Office of The Attorney General
State of Connecticut

Xpressbet, LLC
200 Racetrack Road
Building 26
Washington, PA 15301

Re: Pari-Mutuel wagering and www.xpressbet.com, www.drfbets.com, www.xbselect.com,
www.callabet.com.

To Whom It May Concern:

The State of Connecticut Department of Consumer Protection (Department) is the agency responsible for the administration and enforcement of authorized gaming activity conducted in Connecticut. The Attorney General is the chief civil law enforcement officer of the State of Connecticut. It has come to our attention that you, through the website address above, have been conducting Advance Deposit Wagering (ADW) whereby Connecticut residents establish an account through the website and are allowed to place pari-mutuel wagers against the account. While the company may be licensed, registered or authorized in some jurisdictions to conduct such activity, such licensing authority does not extend to the State of Connecticut.

Pursuant to Chapter 226 of the Connecticut General Statutes (C.G.S.), pari-mutuel wagering is an authorized activity in Connecticut that may only be conducted by a person or business organization granted an Association License by the Department. Additionally, such Association Licensee must remit pari-mutuel taxes to the State of Connecticut in accordance with C.G.S. § 12-575(g). You have not been granted such a license and, therefore, are operating in violation of Connecticut law authorizing and regulating pari-mutuel wagering, as well as Connecticut's criminal gambling statutes, C.G.S. § 53-278a, *et seq.*

Accordingly, you must immediately cease and desist from accepting wagers placed from within the State of Connecticut, whether through the aforesaid website or otherwise. We expect that you will immediately comply with this directive. Please provide written confirmation of such compliance to the Department no later than June, 1, 2014, to the attention of the Department's Gaming Division Director, William Ryan, Department of Consumer Protection, Gaming Division, 165 Capitol Avenue, Hartford, Connecticut 06106 or William.Ryan@ct.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read "George C. Jepsen".

George C. Jepsen
Attorney General

A handwritten signature in dark ink, appearing to read "William M. Rubenstein".

William M. Rubenstein
Commissioner, Department of Consumer Protection